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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,261	07/07/2003	John Taboada	382/103	7790

7590 12/11/2006

Dr. John Taboada
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San Antonio, TX 78230

EXAMINER	
PERVAN, MICHAEL	

ART UNIT	PAPER NUMBER
2629	

DATE MAILED: 12/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/614,261	TABOADA, JOHN	
	Examiner	Art Unit	
	Michael Pervan	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *07 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) *18-25* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,4,5,9,12,14 and 15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *07 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
(f) BACKGROUND OF THE INVENTION.
(1) Field of the Invention.
(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) The Names Of The Parties To A Joint Research Agreement: See 37 CFR 1.71(g).

(e) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

(f) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are

solved by the applicant's invention. This item may also be titled "Background Art."

(g) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(h) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(i) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(j) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(k) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if

an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(l) Sequence Listing, See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

Claim Objections

2. Claim 1 is objected to because of the following informalities: limitations lettered b and e have been removed, therefore the remaining limitations should be re-lettered accordingly, namely a remains a, c becomes b and d becomes c. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1, 4, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koizumi et al (US 5,883,616) in view of Jackson (US 4,794,384).

In regards to claim 1, Koizumi discloses (Figure 1) an apparatus for controlling the position of a cursor marker on a computer monitor screen (3), comprising;

a headset (4) based on the computer user's head (Figure 2 and col. 3, lines 66-67; as can be seen in Figure 2, the headset (4) is on the user's head), a headset having

a small battery power source (col. 3, lines 51-53) and a solid-state optical mouse sensor affixed to the side of the computer screen and positioned such that it receives the speckle (Figure 1 and col. 3, lines 53-61; it is inherent that the sensor is a solid-state since it is made of diodes and other solid-state devices).

Koizumi does not disclose a headset having a laser speckle or interference pattern generator affixed there onto projecting a laser speckle pattern generally onto the computer screen.

Jackson discloses a laser speckle or interference pattern generator (col. 4, lines 25-46).

It would have been obvious at the time of invention to modify Koizumi with the teachings of Jackson, generating a speckle patter via a reflecting surface, by replacing the optical signal transmitter of Koizumi with the laser speckle generator because the range of sensing is wider with a speckle than with direct LED lights and therefore the sensing ability is increased.

In regards to claim 4, Koizumi discloses a headset, which moves with the operator's head movement (Figure 2; since the device is mounted on the user's head, as can be seen from the drawing, the headset would move with the operator's head movement).

In regards to claim 14 and 15, they recite method steps paralleled to the structural means cited in claims 1 and 4 respectfully and are therefore rejected for the same reasons, see MPEP 2112.02 *In re King* ("When the prior art device is the same as

a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process").

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Koizumi in view of Jackson in view of in further view of Rallison et al (US 5,954,967).

In regards to claim 5, Koizumi and Jackson disclose motion correlated to the motion of the operator's head (Figure 2; since the device is mounted on the user's head, as can be seen from the drawing, the headset would move with the operator's head movement).

Koizumi and Jackson do not disclose a laser speckle pattern generator comprised of a low power solid-state laser projecting a beam into a fiber optic bundle or a holographic plate to produce a speckle pattern.

Rallison discloses a laser speckle pattern generator comprised of a low power solid-state laser projecting a beam into a fiber optic bundle or a holographic plate to produce a speckle pattern (col. 8, lines 48-50).

It would have been obvious at the time of invention to modify Koizumi and Jackson with the teachings of Rallison, generating a laser speckle via a fiber optic bundle, by replacing the laser speckle generator method of Koizumi and Jackson with the laser speckle generator method of Rallison because the laser and fiber optic bundle are lined up in series and use a direct line of sight as opposed to reflection, therefore the device could be made smaller.

6. Claims 9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koizumi et al in view of Jackson in further view of Agilent Technologies, Inc (Solid-State Optical Mouse Sensor with PS/2 and Quadrature Outputs).

In regards to claim 9, Koizumi and Jackson do not disclose the solid-state optical mouse sensor being of the two-dimensional optical pattern autocorrelator type.

Agilent Technologies discloses the solid-state optical mouse sensor being of the two-dimensional optical pattern autocorrelator type (col. 2, Description; since it acquires two sequential images and then calculates the change in movement, it is therefore an optical autocorrelator because its correlating the two images together to determine movement).

It would have been obvious at the time of invention to modify Koizumi and Jackson to incorporate the teachings of Agilent Technologies by replacing the monitor sensor of Pelosi because the autocorrelator is more accurate (col.1, fourth bullet).

In regards to claim 12, Koizumi does not disclose the solid-state sensor where the speckle or interference pattern impinges on the complete surface.

Jackson discloses the solid-state sensor where the speckle or interference pattern impinges on the complete surface (col. 4, lines 22-46; it is inherent that the sensor is a solid-state since it is made of diodes and other solid-state devices).

It would have been obvious at the time of invention to modify Koizumi with the teachings of Jackson, generating a speckle patter via a reflecting surface, by replacing the optical signal transmitter of Koizumi with the laser speckle generator because it would enable illumination of the computer screen and sensor.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 5, 9, 14 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art (Pelosi US 2002/0175897) is deemed relevant since it is the divisional application to Pelosi (US 6,424,410).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pervan whose telephone number is (571) 272-0910. The examiner can normally be reached on Monday - Friday between 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMR A. AWAD
SUPERVISORY PATENT EXAMINER

MVP
Nov. 29, 2006